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Board Meeting – December 2, 2013

21st Floor – Conference Room 1

Present Board Members:

- Walter White, Executive Office of Public Safety Designee, Chair (WW)
- Diane McLeod, Vice Chair (DM)
- Mark Trivett, Member (MT)
- Andrew Bedar, Member (AB)
- Carol Steinberg, Member (CS)

and

- Thomas Hopkins, Executive Director
- Kate Sutton, Program Coordinator/Clerk for Proceedings (KS)

Members Not Present:

- Raymond Glazier, Executive Office on Elder Affairs Designee (RG)
- Myra Berloff, Massachusetts Office on Disability (MB)

- Meeting began at 9:10 a.m.

1) **Incoming:** 3 L Place Life College, 50-52 Whitman St., Somerville (V13-310)

- TH
- EXHIBIT – variance application
 - dormitory for young adults with autism
 - over 30%

DM - hearing

MT - second – carries

2) Incoming Discussion: First Dental, 366 Salem St., Medford (V13-162)

- TH - new submittal from Petitioner (EXHIBIT)
- lift at the rear of the building
 - November 1, 2013 deadline
 - seeking a month extension

CS - extend to January 1, 2014 for compliance and temporary CO

AB - second –carries with DM abstaining

3) Incoming: First Parish Church of Stow and Acton, 353 Great Road, Stow (V13-305)

TH - EXHIBIT – variance application

- over 30%
- 8 requests

CS - hearing

DM - second - carries

4) Incoming: 4 Unit Condo, 2 G St., South Boston (V13-308)

TH - EXHIBIT – variance application

- 4 condos above 1 story parking garage for 8 cars
- new construction
- seeking to install a vertical wheelchair lift to the two first floor group 1 units

AB - grant as proposed

MT - second - carries

5) Incoming: Blackstrap Barbeque, 4 Somerset Ave., Winthrop (V13-315)

TH - EXHIBIT – variance application

- single story building with basement story and street level entrances
- expansion into adjacent tenant space
- spending over 30%
- seeking a variance for one of the entrances

AB - grant as proposed

MT - second – carries

6) Incoming: Charles River Skate Park, Education St., Cambridge (V13-313)

TH - EXHIBIT – variance application

- skate park under the Zakim bridge
- variances for 19.7 and 20.1

- green is accessible, pink is not accessible (skate bowls), read is less than 5%

DM - grant as proposed

AB - second

CS - did Michael Muehe weigh in?

TH - no

- carries

Raymond Glazier, Executive Office on Elder Affairs Designee (RG) – Now Present

7) Incoming: Sidewalk at 90 Albion St., Somerville (V13-306)

TH - EXHIBIT – variance application

- reconstructed area of sidewalk

- slope as shown in the exhibit appears to be exempted by the topography language

AB - variance not needed based on exemption of 22.2

MT - second – carries with *CS* abstaining

8) Incoming: Hodgdon Hall, 100 Talbot Ave., Somerville (V13-312)

TH - EXHIBIT – variance application

- renovation of an existing dorm

- spending over 30%

- 15 variance requests

CS - hearing

MT - second – carries

9) Incoming: Mixed Use Building, 22-24 Main St., North Andover (V13-309)

TH - EXHIBIT – variance application

- received a letter from NE Independent Living Center, with a picture of the building with a ramp at the side of the building

- the current owners tore the ramp off the building, and now they are asking for a variance to not have a ramp into the building

DM - deny

CS - second – carries

CS - more information regarding the nature of the businesses, spending, and previous use; submit by December 13, 2013

RG - second – carries

10) Incoming: Bright Horizons Pre-School, 138 Harvard St., Brookline (V13-314)

- TH - EXHIBIT – variance application
- change of use
 - spending \$561,000.00, value of entire building is \$2million+
 - spending over \$100,000.00
 - seeking 2 variances, 30.6.2, seeking to provide lower sink height

DM - grant as proposed for sink height

RG - second – carries

- TH - they may be over 30%, which will trigger common area requirements for the owner of the building
- also seeking a variance for the height of the underground garage, 8 feet provided, 8'2" required

MT - grant

AB - second – carries

11) Incoming: 369 Burncoat St., Worcester (V13-304)

- TH - EXHIBIT - variance application
- on a curb cut variance application

DM - resubmit application

CS - second – carries

- TH - Scott Ricker is working with the Petitioners and supports the variance application
- Petitioners propose to install a handrail at one side
 - need new application submitted first

12) Incoming: Maplewood School, 120 Maplewood Ave., Gloucester (V13-307)

- TH - EXHIBIT – variance application
- reuse of neighborhood school to 12 1-bedroom condos
 - full compliance required
 - elevator will be installed
 - all entrances are served by 6-7 stairs
 - seeking a variance to one of the entrances

DM - grant as proposed

RG - second - carries

- BRIEF BREAK -

13) Discussion: 40 Chase St., Newton (V13-197)

TH - EXHIBIT – November 25th submittal regarding kitchen and toilet rooms

DM - fully accessible bedroom and bathroom at the first floor

DM - grant as proposed for the bathroom, Sketch 1, Proposed bathroom 202 plan

MT - second – carries

DM - policy for use of accessible bedroom

TH - no, because fully occupied now

DM - grant the kitchen as proposed, based on the fact that the first floor kitchen is fully accessible

CS - second – carries

DM - expedite

MT - second – carries

- BRIEF BREAK -

14) Hearing: Stonewood Tavern, 139 Lynnfield St., Suite 200, Peabody (V13-218)

WW - moment of silence for Gerald “Jerry” LeBlanc, long time member of the Board, passed away last week

- motion to notify Ms. LeBlanc of notice of silence

DM - notify family and send notice to family

RG - second – carries

- called to order at 11 a.m.

- introduce the Board

Sal Palumbo, Owner (SP)

WW - SP sworn in

- EXHIBIT 1 – AAB1-19

TH - variance for 14.6

- November 25th email from John Crowell, Architect of record

- proposing installation of platform lift to the stage

WW - EXHIBIT 2, November 25, 2013 email from John Crowell of Deer Hill Architects, LLC

- (read into record)
- seeking a 3 month time variance to operate the business until the lift is installed

SP - area was designed and permit obtained
 - but in the process, the Building Inspector was dismissed
 - construction was done and occupancy permit issued
 - only people allowed up on the stage are musicians
 - it sits behind the bar
 - DJ booth, the DJ is employed by the Tavern

DM - steps to the stage?

SP - yes there are steps, approximately 4 steps
 - steps are where the “ramp” language is

CS - how big is the stage?

SP - approximately several hundred feet
 - space is used for function room and overflow dining

MT - letter says DJ Booth is paid employee of tavern
 - is March 1st a reasonable timeframe

DM - May 1st would be more feasible

CS - *motion to require a sworn affidavit submitted to the Board stating that the DJ booth is already*
 MT- in the packet

CS - *no variance required for the DJ booth, based on the affidavit previously submitted by the*
Petitioners (AAB4)

MT - *second – carries*

CS - *plans for the lift to the stage be submitted by January 24, 2014, can operate pending the*
submittal of plans for the lift

DM - *second – carries*

CS - *require that the lift be installed and inspected by May 1, 2014*

DM - *second – carries*

- LUNCH BREAK -

15) Discussion: Berkshire Museum, 39 South St., Pittsfield (V07-170)

TH - EXHIBIT – December 2nd e-mail from Van Shields
 - (read into record)

CS - *accept status*
RG - *second – carries*

16) Hearing: Mixed Use Building, 299 Newbury St., Boston – FINE (V12-159)

WW - called to order at 1 p.m.
- introduce the Board

Vin Norton, Urban Meritage, Agent for Owner (Jamestown 299-301 Newbury LP) (VN)

WW - VN sworn in
- EXHIBIT 1 – AAB1-14

TH - AAB11, previous decision of the Board
- Email from Petitioner, AAB3-6
- shows conditions that were met of the decision
- analysis regarding Newbury Street entrance to the first floor and require that the Petitioner submit more information regarding the first floor access
- the spending was over 30% of the assessed value of the tenant space, but no discussion about overall trigger
- fines may not be necessary, but only mechanism to get them back before the Board

VN - 3 items remain: signage, access to the upper floor and recording the decision
- currently no lower level tenants, so as soon as a tenant is lined up for the lower level there will be signage posted
- need original decision to record

KS - that can be sent out

VN - both upper level spaces are under long term leases
- 299 side has a lease to a group called Gibberish, which runs until August of 2017 (with a 5 year option to extend)
- enter rear vestibule can put a lift in the rear of the 299 side, at the interior, cannot install until the upper space is back to the building owners (when the lease for Gibberish)
- letting perspective tenants know that the building owner will be taking the space at the rear
- can submit plans showing hashed areas of the building where the lift will be installed, when that occurs
- will install a two-stop vertical wheelchair lift, with an interior corridor to the lift
- 301 side expires in 2022 or 2027, can do the installation where one lift would solve the issue for the access to the upper floor tenant space

CS - would like to see lease language about 5 year renewal

VN - if tenant vacates earlier than can do the work sooner

CS - signage at front and back, as noted in prior decision of the Board, be enforceable prior to the lower level tenants occupancy

DM - second – carries

CS - vertical wheelchair lift installed to provide access to the upper level space, upon expiration of the lease to Gibberish, which expires 8/1/2017

- withdraw

- continue the issue of the access to the upper level retail space, until we receive and review the lease language, to be submitted by January 3, 2014.

MT - second – carries

CS - continue the issue of recording until the lease is reviewed by the Board

RG - second - carries

- Brief Break –

17) Hearing: Essex Hall, 330 Hale St., Beverly (V13-047)

WW - call to order at 2:30

- scheduled for 2 p.m.

- no one present for the hearing

- Green card returned to the office on September 21, 2013

CS - schedule a fine hearing in light of the lack of appearance at the scheduled hearing

WW - why not just contact them and let them know that a hearing will be held again

TH - AAB11, Notice of Action, sent March 15, 2013

- met with architect on June 13, 2013

- this is their “further hearing” noted in 521 CMR 2.3.1

- they chose to not appear

WW - have director call petitioners and report back at next meeting to take action

DM - second -

Withdraw second

WW - no second – motion fails

DM - TH contact the Petitioners and report back at next meeting and finalize a decision at that time

- Diane McLeod no longer present -

18) Hearing: New Life Community Church, 221 Baker Ave., Concord (V13-226)

- WW - called to order at 3 p.m.
- introduce the Board

David Torrey, Architect (DT)

Stephen Meister, President of New Life Community Church (SM)

- WW - both sworn in
- EXHIBIT 1 – AAB1-28

- DT
- seeking to renovate the existing building which they purchased recently
 - previously a commercial building, then the Elks Club
 - bought the building from the Elks Club
 - assembly space at the upper floor, and community facility and Sunday school at the lower floor
 - Phase 1 construction proposed now and Phase 2, when funds are available, will build an addition for a new house of worship
 - lower floor in both phases will be used for Sunday school classes
 - existing building needs some structural and aesthetic work, as well as a roof and new siding
 - proposing to make the existing second floor toilets accessible, by the creation of an accessible toilet room at that floor, which will be unisex
 - kitchen at second floor will also be modified to be fully compliant
 - exterior ramp to the upper floor, which does comply
 - AAB16, access to the building there is a front entrance and parking places, with accessible parking space at the base of the existing ramp
 - lower level is the former Elks Club bar, being converted into the Sunday school
 - re-partitioning the lower level and creating toilet rooms at lower level
 - direct access into the lower level from the rear parking area
 - will need an automatic door opener for the lack of maneuvering clearances at the lower level entrance door
 - stairs between the two levels of the building
 - seeking variance for the lack of interior vertical access
 - if there is a rare occurrence that there would be transition between floors, there would be staff to direct people to the accessible entrance from the exterior accessible route
 - in Phase 2, when addition added, will also include the installation of an elevator
 - \$700,000 for addition of elevator
 - precast concrete building at existing building, hence the high cost for the installation of an elevator
 - seeking a time variance until the construction of Phase 2 can happen, after the community is within the church

- SM - we will have better success raising the funds, once we are allowed into the building
 - there will be people available to direct those unable to traverse the stairs, to the accessible entrances to each level of the building
 - seeking time to raise the funds to proceed with the next phase of construction for the full elevator and addition
- MT - no estimate for LULA or vertical wheelchair lift, but think addressed via long-term plan
- CS - disconnected uses between assembly space and Sunday school kids, don't the kids and parents traverse between the two levels
 - concern with someone having to go outside and into the elements to communicate between the two spaces
 - what is the travel distance between the two entrance doors
- DT - would have to drive around to the other entrance
- CS - would still like to see the study of a vertical wheelchair lift or a LULA
- DT - was under the impression that lift not allowed due to the size of the building
- KS - the statement in 28.12.1 allows the installation of a vertical wheelchair lift or LULA by right, but can still ask for a variance to install a lift or LULA
- SM - congregation is very small and typically know everyone that is coming
 - do assist the elderly currently to get to the worship area
 - typically Sunday school is held during church services
 - don't think that we will need 10 years, could do 5 years
 - don't want to build something and then tear it down
 - due to the existing construction building, have to build onto it and not through
- DT - floor is made of poured concrete, and beams are also concrete
- CS - would like to see study of other options for access
- SM - would like to add onto the building, since it would be a more feasible option than the installation of a lift, LULA or elevator within the building
 - need to get into the building
 - may need more than one elevator based on the number of people within the building
- AB - understand cutting the concrete
 - what does "helping people" mean?

SM - plan would be to purchase an accessible van, to pick up church members or to help move them to the other entrance, for the rare times that they need to do that
- if you don't have children, would just go into the first floor sanctuary
- if a person had a child with a disability or had a disability themselves that would prevent them from traversing between floors
- would buy a used van, and would spend more on a lift, and wouldn't have to build something that may not be used in the future
- the money would be better invested into a van, which could also go out into the neighborhood

AB - would like to see cost estimates and proposals for vertical wheelchair lift or LULA and how that would affect the building

CS - vertical wheelchair lift and limited use limited access elevator be explored, with plans and cost estimates of both proposals

RG - second –

CS - submit by February 7, 2014
- carries

WW - what about a motion to allow the issuance of the building permit for the work to go forward

MT - allow the issuance of a building permit so that the work can begin

AB - second - carries

19) Discussion: Grafton Town House, Grafton Common, Grafton (V)

TH - we closed the second floor and any areas that are open to the public that are not accessible
- received the amended decision
- building inspector has called 3 times and has asked that TH appear before the Board of Selectmen tomorrow

MT - no need for Executive Director Hopkins to appear at the Grafton Board of Selectmen's meeting

AB - second – carries

- End of Meeting -